

**3A**

**FIRE**

**3A**

**i. City Of Cape  
Canaveral Referendum**

**TOWN OF LAUDERDALE-BY-THE-SEA****AGENDA ITEM REQUEST FORM****Vice Mayor**

Department Submitting Request

**Jerry McIntee**

Dept Head's Signature

<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>
<input type="checkbox"/> Mar 25, 2008	Mar 14 (5:00 p.m.)	<input type="checkbox"/> May 27, 2008	May 16 (5:00 p.m.)	<input type="checkbox"/> July 22, 2008	July 11 (5:00 p.m.)
<input type="checkbox"/> April 8, 2008	Mar 28 (5:00 p.m.)	<input type="checkbox"/> June 11, 2008	May 30 (5:00 p.m.)	<input type="checkbox"/> August 2008*	Commission Recess
<input type="checkbox"/> April 22, 2008*	Religious Holiday	<input type="checkbox"/> June 24, 2008	June 13 (5:00 p.m.)	<input checked="" type="checkbox"/> Sept 12, 2008	Sept 1 (5:00 p.m.)
<input type="checkbox"/> May 13, 2008	May 2 (5:00 p.m.)	<input type="checkbox"/> July 8, 2008	June 27 (5:00 p.m.)	<input type="checkbox"/> Sept 25, 2008	Sept 12 (5:00 p.m.)

\* Meeting Canceled

**NATURE OF AGENDA ITEM**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Presentation   | <input type="checkbox"/> Resolution     | <input checked="" type="checkbox"/> New Business |
| <input type="checkbox"/> Report         | <input type="checkbox"/> Ordinance      | <input type="checkbox"/> Manager's Report        |
| <input type="checkbox"/> Consent Agenda | <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Attorney's Report       |
| <input type="checkbox"/> Bids           | <input type="checkbox"/> Old Business   | <input type="checkbox"/> Other                   |

**EXPLANATION:** Discussion and or action pertaining to referendum ie: City Of Cape Canaveral.**STAFF RECOMMENDATION:** N/A**BOARD/COMMITTEE RECOMMENDATION:** N/A**FISCAL IMPACT AND APPROPRIATION OF FUNDS:** N/A

- |   |  |
|---|--|
| <input type="checkbox"/> Amount \$ _____            | <input type="checkbox"/> Acct # _____  |
| <input type="checkbox"/> Transfer of funds required | <input type="checkbox"/> From Acct # _____   |
| <input type="checkbox"/> Bid                        | <input type="checkbox"/> Grant <input type="checkbox"/> Amount represents matching funds |

Provide copies of approved item to:

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Administration       | <input type="checkbox"/> Town Attorney      | <input type="checkbox"/> Finance                                   |
| <input type="checkbox"/> Development Services | <input type="checkbox"/> Municipal Services | <input type="checkbox"/> Parking                                   |
| <input type="checkbox"/> Police               | <input type="checkbox"/> Fire               | <input type="checkbox"/> Other ( <i>provide complete address</i> ) |

Town Attorney review required

☒ Yes ☐ NoTown Manager's Initials:   *PM*

MICROFILMED AUG 87

EMERGENCY ORDINANCE NO. 85-1

AN EMERGENCY ORDINANCE PROVIDING FOR FIRE  
PROTECTION SERVICES; PROVIDING AN EFFECTIVE  
DATE.

WHEREAS, the City Council of the City of Cape Canaveral,  
Florida, finds that a state of emergency exists in the provision  
of fire protection services to the citizens; and

WHEREAS, the City Council desires to maintain the level of  
fire protection services afforded the City of Cape Canaveral as  
of November 4, 1985;

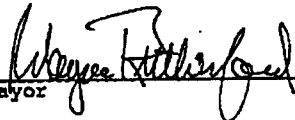
NOW, THEREFORE, BE IT ORDAINED, by the City Council of the  
City of Cape Canaveral, Florida, as follows:

SECTION 1. The City Council is empowered to provide fire  
protection services in the same manner and degree as it did on  
November 4, 1985.


SECTION 2. The City Council is empowered to operate a fire  
department, to contract for fire protection services and to  
maintain personnel and firefighting facilities and equipment as  
deemed necessary by the City Council.

SECTION 3. This Ordinance shall take effect immediately  
upon adoption.

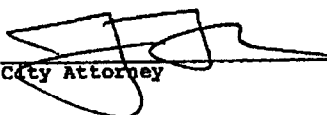
ADOPTED BY the City Council of the City of Cape Canaveral,  
Florida, this 5th day of November, 1985.

  
Mayor

ATTEST:

  
City Clerk

Approved as to Form:

  
City Attorney

NAME	YES	NO
FISCHETTI	X	
MARCHETTI	X	
NICHOLAS	X	
RUTHERFORD	X	
WINCHESTER	X	

ORDINANCE NO. 43-85

AN ORDINANCE OF THE CITY OF CAPE CANAVERAL REQUIRING THAT THE COUNCIL SHALL PASS NO ORDINANCE, RESOLUTION, OR MOTION OBLIGATING OR AUTHORIZING THE CITY TO ESTABLISH OR OPERATE A FIRE DEPARTMENT, OR TO BUILD OR ACQUIRE A FIRE STATION, OR TO CONTRACT FOR FIRE PROTECTION SERVICES WITH ANY PERSON, GOVERNMENTAL ENTITY OR CORPORATION OTHER THAN THE CAPE CANAVERAL VOLUNTEER FIRE DEPARTMENT, INC., WITHOUT SUCH PLAN OR PROPOSAL HAVING BEEN FIRST APPROVED BY A MAJORITY VOTE OF THE QUALIFIED ELECTORS OF THE CITY VOTING IN A GENERAL ELECTION OR ONE HELD FOR THIS PURPOSE. NOTHING HEREIN SHALL PREVENT THE CITY OR CAPE CANAVERAL VOLUNTEER FIRE DEPARTMENT, INC., FROM ENTERING INTO A MUTUAL AID AGREEMENT WITH ANY MUNICIPALITY, BREVARD COUNTY OR ANY PRIVATE OR FEDERAL AGENCY FOR THE PURPOSE OF SUPPLEMENTING THE FIRE PROTECTION SERVICES PROVIDED BY THE CAPE CANAVERAL VOLUNTEER FIRE DEPARTMENT, INC.

FURTHER PROVIDING THAT ANY ACTION PREVIOUSLY TAKEN BY RESOLUTION, MOTION, OR OTHERWISE TO ESTABLISH OR OPERATE A FIRE DEPARTMENT OR TO BUILD OR ACQUIRE A FIRE STATION SHALL BE TERMINATED OR STAYED UNTIL BROUGHT INTO COMPLIANCE WITH THIS SECTION.

WHEREAS, the five electors have petitioned the City pursuant to Article XXI, Sections 12, 13, 14, 15, 16, 17, and 18 of Cape Canaveral City Charter, and

WHEREAS, pursuant to Chapter 166 of the Florida Statutes and relevant portions of the Cape Canaveral City Charter, the City Council must approve or disapprove of the proposed Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Cape Canaveral, Florida, as follows:

SECTION 1. Article XIV, "Fire Department", is hereby amended as follows:

Article XIV

THAT THE COUNCIL SHALL PASS NO ORDINANCE, resolution, or motion obligating or authorizing the City to establish or operate a Fire Department, or to build or acquire a Fire Station, or to contract for fire protection services with any person, governmental entity or corporation other than the Cape Canaveral Volunteer Fire Department, Inc., without such plan or proposal having been first approved by a majority vote of the qualified electors of the City voting in a general election or one held for this purpose. Nothing herein shall prevent the City or Cape Canaveral Volunteer Fire Department, Inc., from entering into a Mutual Aid Agreement with any municipality, Brevard County or any private or federal agency for the purpose of supplementing the fire protection services provided by the Cape Canaveral Volunteer Fire Department, Inc.

MICROFILMED AUG 87

FURTHER PROVIDING that any action previously taken by Resolution, motion or otherwise to establish or operate a Fire Department or to build or acquire a Fire Station shall be terminated or stayed until brought into compliance with this Section.

SECTION 2. All portions of the City Charter and all Ordinances, Resolutions or policies in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3. This Ordinance shall become effective immediately upon its adoption.

ADOPTED BY the City Council of the City of Cape Canaveral, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to Form:

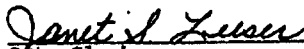
\_\_\_\_\_  
City Attorney

This Ordinance failed on First Reading on September 17, 1985 and was placed on the ballot as a referendum question. It was subsequently adopted by the voters at the General Election held on November 5, 1985.

Signed this 7th day of November, 1985.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Town Commission Regular Meeting September 15, 2008  
Continuation of the September 12, 2008 Commission meeting

Commissioner Dodd made a motion to issue the required number of parking passes to election officials for allocated spaces on Election Day. Commissioner Silverstone seconded the motion.

In a roll call vote, the motion carried 5 - 0.

- h. Discussion and/or action regarding an electronic voting system (Clerk White)  
(Requested by Commission Dodd)

Commissioner Dodd made a motion to table to the September 25, 2008 Commission meeting. Vice Mayor McIntee seconded the motion. All voted in favor 5-0.

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- \* i. Discussion and/or action pertaining to referendum ie: City of Cape Canaveral  
(Vice Mayor McIntee)

Vice Mayor McIntee made a motion to table this item to February 10, 2009. Commissioner Silverstone seconded the motion. All voted in favor 5-0.

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- j. Discussion and/or action to require placement of rip current information in every  
hotel & condo (Commissioner Clotey)

Commissioner Clotey made a motion to require hotels and condominiums to inform tourists of rip tide conditions. She did not believe it would cause a hardship, and believed it would save lives. Vice Mayor McIntee seconded the motion.

Manager Colon said staff could do the mailing but they would need to get a template used by BSO and VFD so everyone used the same information.

Vice Mayor McIntee asked whether it would be best to send the information in "good faith" communication as opposed to "orders to post" to relieve liability. Attorney Abbott thought that would be best from a liability perspective.

Commissioner Silverstone made a friendly amendment to offer "good faith" communication by staff. Manager Colon stated that staff was not qualified to do that. She suggested that the Volunteer Fire Department take on the deed. Commissioner Silverstone withdrew his amendment and requested placement on the September 25, 2008 agenda.

Vice Mayor McIntee was concerned what would happen if they missed a day and a green flag was posted rather than a red flag. He thought that was a tremendous responsibility. Commissioner Clotey believed the flags should be taken down after a certain hour.

to be eliminated; and 4) the beach hourly meter rate would stand at \$1.25. All voted in favor.

Vice Mayor McIntee made a motion for reconsideration. He stated that there were a lot of people that purchased beach parking. He believed there should be beach parking only for residents. Commissioner Silverstone seconded for reconsideration and suggested tabling this matter until feedback from the residents was obtained.

Vice Mayor McIntee believed the Commission needed to protect beach spaces for the residents as others would come to the beach and take up all the beach spaces. He believed they should set areas. Mayor Minnet stated that was why staff set the designated areas that were just eliminated. Assistant Town Manager Olinzock said spaces were designated at \$15 only for those who wanted to come to the beach. He said it offered a value.

Commissioner Clotey questioned whether a resident could park in the beach parking area. Assistant Town Manager clarified that a resident could park anywhere.

Vice Mayor pointed out that a non-resident that parked there would pay the meter, but a resident with a resident sticker would not. Vice Mayor McIntee stated that on Saturday people could come and park in all the spaces by the beach. Assistant Town Manager Olinzock explained that was the intent of the beach parking spaces. Commissioner Clotey thought the problem could be solved by leaving the 12 spaces on a trial basis for the residents and only 1 parking permit that people had to buy.

Vice Mayor McIntee reinstated his motion to reconsider. Commissioner Silverstone seconded the motion. The motion failed 3-2. Commissioner Dodd, Mayor Minnet and Commissioner Clotey voted no.

#### 14. QUASI JUDICIAL PUBLIC HEARINGS

#### 15. OLD BUSINESS

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- \* a. Discussion and/or action pertaining to referendum ie: City of Cape Canaveral (Vice Mayor McIntee) Tabled at the September 12, 2008 Commission meeting by Vice Mayor McIntee

Vice Mayor McIntee requested a workshop in May 2009 to discuss the Cape Canaveral referendum and the height referendum. Commissioner Silverstone added that he wanted to include "purchase and capital sales" to that workshop. Mayor Minnet clarified that the workshop would include the fire department, the height limit and capital purchases.

Attorney Abbott stated that an Ordinance would have to pass 2nd reading in order to be placed on the ballot and would have to meet the Supervisor of Elections deadline. Manager Colon believed the deadline was August.




Commissioner Dodd made a motion to table indefinitely. He believed that if the fire department was doing their job correctly there would be no need for a referendum, and if they were not the Commission should have the power to do something about it immediately. The motion failed for lack of a second.

Commissioner Clotey did not object to what Commissioner Dodd was saying. She believed that if the referendum was worded properly it would give the power to the Commission.

Vice Mayor McIntee stated that the referendum would be decided by the Commission as to what it would say. He added that it would be up to the voters whether to protect the Fire department or not.

Commissioner Silverstone referred to a recent suicide and believed that the issue could be brought up again by a future Commission who could terminate the Volunteers. He said the referendum did not address safety but allowed the people to decide whether to keep the fire department. Commissioner Silverstone said there was a way to create a referendum that would address both issues.

Commissioner Dodd suggested scheduling the workshop in April to allow time to obtain acceptable wording for the referendum. Mayor Minnet suggested the Commission wait until the March 2010 election and get the referendum right. Vice Mayor McIntee agreed. Commissioner Silverstone believed that the March elections would have too many things on the ballot. Vice Mayor agreed to having the workshop sometime in May.

The Commission scheduled the workshop for Wednesday, May 13, 2009 at 7:00 p.m. to discuss fire, height and capital expenditures. 

Vice Mayor McIntee asked Attorney Abbott whether a document, created by a Commissioner and read word for word, became public record. Attorney Abbott said it depended on whether it was meant to permanently record a recollection or not. He added that rough notes could be drafted, even rough notes for a speech and, if not intended to permanently record thoughts it would not become a public record. Vice Mayor McIntee wanted to know whether he was entitled to copies of the notes. Attorney Abbott stated that if the note was not circulated to others and was not intended to permanently record recollection, it did not become a public record. He added that if the note was shown to another Town official or was meant to permanently record recollection it would become a public record.

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- b. Discussion and/or action regarding Valet Parking for 101 Ocean and Village Grill (Vice Mayor McIntee) Tabled at the January 27, 2009 Commission meeting by Vice Mayor McIntee

**3A**

**ii. Ordinance 2008-17**

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- \* 1. Ordinance 2008-17: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING THE TOWN CHARTER TO REQUIRE THE TOWN TO CONTRACT WITH LAUDERDALE-BY-THE-SEA VOLUNTEER FIRE DEPARTMENT, INC., FOR THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE TOWN; REQUIRING REFERENDUM APPROVAL OR FOUR-FIFTHS VOTE OF THE TOWN COMMISSION FOR ANY ENTITY OTHER THAN LAUDERDALE-BY-THE-SEA VOLUNTEER FIRE DEPARTMENT, INC. TO PROVIDE PRIMARY FIRE PROTECTION SERVICES IN THE TOWN; PROVIDING FOR CONFLICTS WITH OTHER PROVISIONS OF THE TOWN CHARTER; CALLING FOR A REFERENDUM ELECTION; PROVIDING FOR THE FORM OF THE BALLOT; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE (FOR FIRST READING) (TABLED AT THE JULY 22, 2008 COMMISSION MEETING BY COMMISSIONER DODD)

Attorney Abbott explained a provision had been added to the Ordinance that allowed the Town to get fire protection service from other sources other than the Volunteer Fire Department by a 4/5 vote of the Town Commission.

Vice Mayor McIntee made a motion to table Ordinance 2008-17 for 6 months. Commissioner Dodd seconded the motion. All voted in favor, 5-0.

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b. Ordinances 2nd Reading - "PUBLIC HEARING"

10. COMMISSIONER COMMENTS

Vice Mayor McIntee thought the Volunteer Fire Department was doing a great job. He said the Volunteer Fire Department was getting burned out with all the negativity. Vice Mayor McIntee pointed out that the Volunteer Fire Department had 112 calls in one month and responded to all of them. He said ISO was the ultimate independent outside oversight as they looked at everything. Vice Mayor McIntee said that American Medical Response (AMR) was an outstanding ambulance service.

Mayor Minnet stated that no one was attacking the Volunteer Fire Department. She said questions were being asked that should be asked. Mayor Minnet visited the reclaim facilities in Pompano and West Palm Beach as a representative from the Broward Water Academy. She asked the people to reach out and look at ways they could help the community. Mayor Minnet believed the Commission must move on to get the Town what they need. Mayor Minnet clarified that she wrote her letter to the Insurance Service Office (ISO) on Town letterhead requesting the evaluation begin on the Volunteer Fire Department. She stated that since ISO was the best oversight, why wait? She was happy to see the volunteer firefighters and thanked them for coming to the meeting.

ORDINANCE 2008-17

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING THE TOWN CHARTER TO REQUIRE THE TOWN TO CONTRACT WITH LAUDERDALE-BY-THE-SEA VOLUNTEER FIRE DEPARTMENT, INC., FOR THE PROVISION OF FIRE PROTECTION SERVICES WITHIN THE TOWN; REQUIRING REFERENDUM APPROVAL OR A FOUR-FIFTHS VOTE OF THE TOWN COMMISSION FOR ANY ENTITY OTHER THAN LAUDERDALE-BY-THE-SEA VOLUNTEER FIRE DEPARTMENT, INC. TO PROVIDE PRIMARY FIRE PROTECTION SERVICES IN THE TOWN; PROVIDING FOR CONFLICTS WITH OTHER PROVISIONS OF THE TOWN CHARTER; CALLING FOR A REFERENDUM ELECTION; PROVIDING FOR THE FORM OF THE BALLOT; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, Lauderdale-By-The-Sea Volunteer Fire Department, Inc. (the "Volunteer Fire Department") was incorporated on May 1, 1961, for the purpose of providing the Town with fire protection services; and

WHEREAS, since its incorporation, with the exception of a brief interruption, the Volunteer Fire Department has continuously provided fire protection services to the Town; and

WHEREAS, the provision of fire protection services is a matter of vital public interest; and

WHEREAS, the Town Commission has determined that it is in the best interest of the Town to require the Town to contract with the Volunteer Fire Department for the provision of fire protection services in the Town, and to further require referendum approval or a supermajority vote of the Town Commission as a prerequisite to any entity other than the Volunteer Fire Department providing primary fire protection services in the Town; and

WHEREAS, the Town Commission recognizes that certain fire protection services may be provided to support or supplement the Volunteer Fire Department, through mutual

aid agreements, automatic aid agreements and the like, and that these services are both proper and necessary.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA, THAT:**

**Section 1.** The foregoing Whereas clauses are true and correct and incorporated herein by this reference.

**Section 2.** Effective immediately upon the approval of this Ordinance by referendum, Lauderdale-By-The-Sea Volunteer Fire Department, Inc. will be recognized as the primary provider of fire protection services in the Town.

**Section 3.** After the approval of this Ordinance by referendum, no entity other than the Lauderdale-By-The-Sea Volunteer Fire Department will be the primary provider of fire protection services in the Town without prior approval in a referendum election or by a four-fifths (4/5) vote of the Town Commission.

**Section 4.** Effective immediately upon the approval of this Ordinance by referendum, Article VIII of the Town Charter will be created as follows:

#### **ARTICLE VIII. FIRE PROTECTION SERVICES**

##### **Sec. 8.1 Fire protection services to be provided by volunteer fire department**

The Town shall contract with Lauderdale-By-The-Sea Volunteer Fire Department, Inc. for the provision of fire protection services within the Town. The Town or Lauderdale-By-The-Sea Volunteer Fire Department, Inc. may, however, enter into mutual aid agreements or automatic aid agreements for the purpose of supplementing the fire protection services provided by Lauderdale-By-The-Sea Volunteer Fire Department, Inc.

##### **Sec. 8.2 Prerequisites to changing provider of fire protection services**

The Town Commission shall pass no ordinance, resolution, or motion obligating or authorizing the Town to establish or operate a Fire Department, or to contract for fire

60 protection services with any person, governmental entity or corporation other than  
61 Lauderdale-By-The-Sea Volunteer Fire Department, Inc. without such plan or proposal  
62 having been first approved by (a) a majority vote of the qualified electors of the Town in a  
63 referendum held for this purpose, or (b) a four-fifths (4/5) vote of the Town Commission.  
64 Nothing herein shall prevent the Town or Lauderdale-By-The-Sea Volunteer Fire  
65 Department, Inc. from entering into mutual aid agreements or automatic aid agreements for  
66 the purpose of supplementing the fire protection services provided by Lauderdale-By-The-  
67 Sea Volunteer Fire Department. Inc.

68 Section 5. In the event of a conflict between the provisions of this ordinance and  
69 any other provision of the Town Code, Town Charter, ordinance or resolution, this ordinance  
70 shall control.

71 Section 6. The proposed amendment to the Town Charter set forth herein shall  
72 be submitted to referendum for approval by the electors. The date of the referendum election  
73 will be determined by a separate ordinance or resolution of the Town Commission.

74 Section 7. The ballot to be used in such referendum election shall be in  
75 substantially the following form:

76 TOWN OF LAUDERDALE-BY-THE-SEA, AMENDMENT OF  
77 CHARTER BY ADDITION, FIRE PROTECTION SERVICES  
78 SHALL THE TOWN CHARTER OF LAUDERDALE-BY-THE-SEA FLORIDA BE  
79 AMENDED TO REQUIRE THE TOWN TO CONTRACT WITH LAUDERDALE-BY-  
80 THE-SEA VOLUNTEER FIRE DEPARTMENT, INC FOR THE PROVISION OF FIRE  
81 PROTECTION SERVICES, AND A REFERENDUM ELECTION OR FOUR-FIFTHS  
82 VOTE OF THE TOWN COMMISSION THEREAFTER BE REQUIRED PRIOR TO ANY  
83 ARRANGEMENT BY WHICH FIRE PROTECTION SERVICES WOULD BE

84 PROVIDED BY ANY ENTITY OTHER THAN LAUDERDALE-BY-THE-SEA  
85 VOLUNTEER FIRE DEPARTMENT, INC.?

86 YES \_\_\_\_\_ NO \_\_\_\_\_.

87 Section 8. If this Ordinance is approved in the referendum election, the  
88 provisions will be incorporated into the Town Charter as an addition thereto, and may be  
89 appropriately renumbered to conform to the uniform numbering system of said Charter. A  
90 copy of the revised Charter shall be filed with the Department of State.

91  
92 Section 9. Adoption.

93  
94 Passed on the first reading, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

95 Passed on the second reading, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

96  
97  
98  
99 \_\_\_\_\_  
100 Mayor Roseann Minnet

101 First Reading

Second Reading

102  
103 Mayor Minnet

104  
105 Vice-Mayor McIntee

106  
107 Commissioner Clotey

108  
109 Commissioner Silverstone

110  
111 Commissioner Dodd

112  
113 Attest:

114  
115 \_\_\_\_\_  
116 June White, Town Clerk

117  
118 (Corporate Seal)

119